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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.4291 OF 2005
IN
CRIMINAL APPEAL NO.635 OF 2005

Mujahid Murtuza Sakharakar	...	Appellant
Vs.		
The State of Maharashtra	...	Respondent

Mr. V.T. Tulpule with Mr. Rakesh Bhatkar for the applicant.

Mr. Y.S. Shinde, A.P.P. for the State.

CORAM: SMT. RANJANA DESAI &
ANOOP V. MOHTA, JJ.

DATED: 24TH OCTOBER 2005.

P.C.:-

1. The applicant is convicted for offence punishable under section 302 of the Indian Penal Code (for short, "the IPC") and sentenced to suffer RI for life. He is also convicted for the offence punishable under section 377 of the IPC and is sentenced to suffer RI for two years. The substantive sentences are ordered to run concurrently. We have admitted the appeal against judgment and order of conviction and sentence. Today, we are considering the bail application.

2. We have heard Mr. Tulpule, the learned counsel appearing for the applicant. He has pointed out that the applicant was on bail during the trial and his conviction is based only on circumstantial evidence. The learned

counsel submitted that several links in the chain of circumstances are snapped and, therefore, the applicant may be released on bail.

3. We have heard Mr. Shinde, the learned A.P.P. for the State.

4. The case of the prosecution rests on circumstantial evidence. The prosecution has, inter alia, relied on the fact that the applicant and the deceased were last seen together; that the scooter used by the accused was found abandoned, the recovery of wrist watch of the accused from the scene of offence, the discovery of blood stained clothes of the accused at his instance and also the discovery of blood stained stone.

5. We have perused the evidence of the Investigating Officer, who has categorically stated that the scooter does not belong to the applicant. In our prima facie opinion, the finding of wrist watch of the accused at the scene of offence does not inspire confidence. Prima facie, the prosecution has not proved that it belongs to the accused. The clothes have allegedly been recovered from the open place. Considering the fact that the applicant was on bail during trial and that this is a case which rests on circumstantial evidence, we feel that the applicant should be released on bail. Hence, the following order :

O R D E R

The appellant - Mujahid Murtuza Sakharkar, is released on bail on his furnishing bail bond in the sum of Rs.10,000/- with one or two sureties in the like amount. He shall report to the Ratnagiri City Police Station, once in a month.

6. The application is disposed of.

(SMT. RANJANA DESAI, J.)

(ANOOP V. MOHTA, J.)